

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION AT DAYTON**

JOHN PETERS, III

Plaintiff,

: Case No. 3:11-cv-336

-VS-

Judge Walter H. Rice
Magistrate Judge Michael J. Newman

DAYTON POLICE DEPT SECURED
LOT STORAGE,

Defendant.

:

REPORT & RECOMMENDATION AND
NOTICE REGARDING OBJECTIONS

This is a *pro se* civil case for which Plaintiff was granted leave to proceed *in forma pauperis* on September 28, 2011. Doc. 2. In that Order, Plaintiff was advised of the need to present the appropriate documents, including a USM Form 285, to the United States Marshal for service of his complaint. *Id.* The docket reflects that, the same day, form summonses and a blank USM 285 form were sent to pro se Plaintiff at the address listed on the complaint.

More than 120 days have since passed, and the docket fails to reflect that Plaintiff has served Defendant. Accordingly, and pursuant to Fed. R. Civ. P. 4(m), the Court **RECOMMENDS** that Plaintiff's complaint be dismissed, and this case closed, due to Plaintiff's failure to timely serve Defendant as well as his lack of prosecution.

February 1, 2012

s/ **Michael J. Newman**
United States Magistrate Judge

NOTICE REGARDING OBJECTIONS

Pursuant to Fed.R.Civ.P. 72(b), any party may serve and file specific, written objections to the proposed findings and recommendations within fourteen days after being served with this Report and Recommendations. Pursuant to Fed.R.Civ.P. 6(e), this period is automatically extended to seventeen days because this Report is being served by one of the methods of service listed in Fed.R.Civ.P. 5(b)(2)(B), (C), or (D) and may be extended further by the Court on timely motion for an extension. Such objections shall specify the portions of the Report & Recommendation objected to and shall be accompanied by a memorandum in support of the objections. If the Report & Recommendation is based in whole or in part upon matters occurring of record at an oral hearing, the objecting party shall promptly arrange for the transcription of the record, or such portions of it as all parties may agree upon or the Magistrate Judge deems sufficient, unless the assigned District Judge otherwise directs. A party may respond to another party's objections within fourteen days after being served with a copy thereof. Failure to make objections in accordance with this procedure may forfeit rights on appeal. *See United States v. Walters*, 638 F.2d 947 (6th Cir. 1981); *Thomas v. Arn*, 474 U.S. 140, 106 S.Ct. 466, 88 L.Ed.2d 435 (1985).